

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

<p>Teri Jon Sports, Inc.</p> <p>Plaintiff ..</p> <p>v.</p> <p>Readmob Technologies (HK) Limited; PayPal Holdings, Inc.; PayPal, Inc. American Express Company; Visa; Inc.; Mastercard Incorporated; Google, Inc.</p> <p>Defendants</p>	<p>CIVIL ACTION NO.</p> <p><b>COMPLAINT</b></p> <p><b>JURY TRIAL DEMANDED</b></p>
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Plaintiff Teri Jon Sports, Inc. by its attorneys, The Law Office of Avram E. Frisch LLC for their complaint against the above named Defendants, alleges as follows:

**NATURE OF THE ACTION**

1. The Internet has opened the door for unauthorized merchants to reach a wide range of consumers in their efforts to sell obvious counterfeit versions of products that are not manufactured, licensed, or approved by the duly registered owner(s) of the product's trademark(s) ("Fake Products").

2. This is an action against Readmob Technologies (HK) Limited (“Readmob”) the proprietor of websites at [www.jjshouse.com](http://www.jjshouse.com) and [www.jenjenhouse.com](http://www.jenjenhouse.com) (the “Readmob Websites”), where it trades on Plaintiff’s name to sell knockoff fashion products; PayPal, Inc. and PayPal Holdings, Inc. (collectively “PayPal”), American Express Company (“Amex”), Visa, Inc. (“Visa”) and Mastercard Incorporated (“Mastercard” and Paypal, Amex, Visa and Mastercard are collectively the “Payment Processing Defendants”). Defendant Google, Inc. (“Google”) facilitates the Readmob Websites by selling them adwords that use Plaintiff’s registered trademarks to direct potential customers away from the Plaintiff and to fraudulent sites like the Readmob Websites.
3. The action arises in connection with Readmob’s direct infringement on Plaintiff’s Marks to sell products that are not manufactured by Plaintiff and to market to Plaintiff’s potential customers online. This behavior, using the display of Plaintiff’s trademarks, in violation of the Trademark Act of 1946, 15 U.S.C. § 1051, et seq. (the “Lanham Act”), the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c), et seq. (“RICO”).
4. The Payment Processor Defendants allow their trademarks to be featured prominently on the Readmob Websites as they profit from the processing of payments through the websites operated by Readmob. The Payment Processor Defendants facilitate the use of the internet to help destroy the value of Plaintiff’s marks and steal customers. They do this simply for their own profit, without regard to the damage they are perpetrating on innocent victims like Plaintiff.

5. Google profits on advertisements making use of the Plaintiff's registered trademarks and allows Readmob and others to purchase advertisements that clearly violate the Plaintiff's marks.
6. Plaintiff is informed and believes that the Payment Processor Defendants and Google intentionally turn a blind eye to the infringing activity google.com and through the Readmob Websites, which prominently display the logos of the Payment Processor Defendants, giving the imprimatur of some of the world's best known corporation to the fraud being perpetrated by Readmob.
7. Because the Defendants cannot continue to enjoy the enormous profits derived from the sale of the Fake Products on the Readmob Websites, Plaintiff has commenced this action against the Defendants who benefit from the intentional infringement of Plaintiff's rights. As Readmob could not function without the assistance of the other Defendants, Plaintiff is seeking to its damages and injunctive relief from all of the Defendants, so that they ensure that their business practices are protective of the rights of Plaintiff and others similarly situated.

### **THE PARTIES**

8. Plaintiff, TERI JON SPORTS, INC., ("Teri Jon") is a New York corporation with an address at 241 W 37TH Street, 3<sup>rd</sup> Fl., New York, New York, 10128-4804. Plaintiff is engaged in the design and manufacture of high end women's fashion apparel.
9. Readmob is upon information and belief a Hong Kong corporation with an address at 9B, Amtel Building, 148 Des Voeux Road, Central, Hong Kong. Readmob

operates retail websites that use the name of Teri Jon to defraud their customers with Fake Products.

10. PayPal Holdings, Inc. is the corporate parent of Paypal, Inc. Plaintiff is uncertain at this time which entity is the actual operator of the Paypal service. Paypal Holdings, Inc. describes the relationship between the entities as follows in its 2016 K-1 Annual Report filed with the Securities and exchange Commission: On July 17, 2015, PayPal Holdings, Inc. (“PayPal Holdings”) became an independent publicly traded company through the pro rata distribution by eBay Inc. (“eBay”) of 100% of the outstanding common stock of PayPal Holdings to eBay’s stockholders (which we refer to as the “separation” or the “distribution”).
11. For the purposes of this Complaint, Plaintiff’s allegations against the Paypal entities The address of PayPal’s principal executive offices is PayPal Holdings, Inc., 2211 North First Street, San Jose, California 95131.
12. American Express Company is upon information and belief a New York corporation with its principal place of business at 200 Vesey Street, New York, New York, 10285. Amex is engaged in the distribution of credit cards and processing of payments made with its credit cards.
13. Visa; Inc. is upon information and belief a Delaware corporation with its principal place of business at 900 Metro Center Blvd Foster City CA 94404. Visa describes itself as a “global payments technology company working to enable consumers, businesses, banks and governments to use digital currency” and is primarily engaged in arranging for the acceptance and

processing of Visa branded credit cards. Visa regularly conducts business in this district.

14. Mastercard Incorporated is upon information and belief a Delaware corporation with its principal place of business at 2000 Purchase Street, Purchase, NY 10577. Mastercard states that “For 50 years, we've been using our technology and expertise to make payments safer, simpler and smarter. We don't issue cards, but we do make payments happen around the clock, around the world.” Mastercard regularly conducts business in this district.

15. Google, Inc. is upon information and belief a Delaware corporation with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043. Google regularly conducts business in this district.

### **JURISDICTION**

16. This is an action arising under the Trademark Act of 1946, 15 U.S.C. § 1051, et seq. (the “Lanham Act”), the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1962(c), et seq. (“RICO”).

17. This Court has federal question jurisdiction over this action under 15 U.S.C. § 1121(a) (action arising under the Lanham Act), 28 U.S.C. §§ 1331 (federal question), 1338(a) (any Act of Congress relating to patents or trademarks), and 1338(b) (action asserting claim of unfair competition joined with a substantial and related claim under the trademark law).

### **VENUE**


18. Venue is proper in this District under 28 U.S.C. §§ 1391(b), (c) and (d) as Defendants transact business in New York County, a substantial part of the events or omissions giving rise to the claim occurred within this District, and one or more of the Defendants has its principal place of business in this district.

### **FACTUAL ALLEGATIONS**

#### **Plaintiff's Business and Marks**

19. Plaintiff is the owner of the right, title and interest in and to, inter alia, the following federally registered trademarks and/or service marks: 1911504 for the name Teri Jon in regard to “dresses, suits, slacks, sweaters, blouses, scarves, jackets, skirts, ties.”
20. Annexed hereto as Exhibit 1 is a true and correct copy of the United States Patent and Trademark Office (“PTO”) registration certificate evidencing Plaintiff's ownership of these trademarks and printouts from the PTO's website setting forth the status of these trademarks. The mark was first used in commerce on or before the first date of use set forth in Exhibit 1. The Registration set forth in Exhibit 1 is valid and subsisting, and Plaintiff also owns common law rights in the above and other marks for use in connection with Teri Jon Products. These registered and common law trademarks are collectively referred to as the “Teri Jon Marks” or “Plaintiff's Marks.”
21. The Teri Jon Marks are in full force and effect. Teri Jon has never abandoned the Teri Jon Marks nor has Teri Jon ever abandoned the goodwill of its businesses

in connection thereto. Teri Jon intends to continue to preserve and maintain its rights with respect to the Teri Jon Marks.

22. Teri Jon designs, manufactures and distributes high end clothing including evening dresses, cocktail dresses, and other fashion and accessories. Teri Jon is a luxury brand with the finest specialty and day-to dinner wear. Teri Jon products are sold globally in high-end department stores such as Saks Fifth Avenue, Neiman Marcus, and Lord and Taylor, as well as in specialty boutiques worldwide. Every Teri Jon item is designed with precision and artistry, and is made with top quality fabrics and expert craftsmanship.
23. Readmob operates websites under the domains jjshouse.com and jenjenhouse.com and possibly others where they sell clothing of unknown origin. On both Jenjenhouse.com and JJshouse.com, Readmob claims that each is the “global leading online retailer for wedding gowns, special event dresses, wedding party dresses, and accessories.”
24. Readmob does not and has never sold Teri Jon products and has never been authorized to do so by Teri Jon; nor has it ever been authorized to use Teri Jon’s marks.
25. Readmob displays the logos of numerous corporate partners, including the Payment Processor Defendants at the bottom of every page of the Readmob Websites.  
The image shows a horizontal bar of logos for four payment processors: Visa (blue and yellow), MasterCard (orange and red), American Express (blue and white), and PayPal (blue and white). The logos are arranged in a row, with each logo clearly visible and distinct from the others.
26. Tellingly, the file name of this file is “trust\_left.png.” This bar of logos is used to indicate to potential customers that the Readmob Websites are trustworthy and selling high end, high quality products.

27. Visitors to defendant Google's website are directed to the Readmob Websites by paid advertisements known as "Google Adwords." Google sells Readmob the words "Teri Jon Evening Gowns" and other search terms using the Teri Jon Mark.
28. Readmob's JJShouse.com pays to be in first position and allowing Google to profit off of Teri Jon's trademarks. Annexed hereto as Exhibit 2 is a printout of a Google Search performed on May 24, 2017 showing a link to JJShouse.com with the headline "Teri Jon Evening Gowns."
29. Upon clicking the link, a visitor is taken to a page with a header "'Teri Jon Evening Gowns" Here are all kinds of perfect Teri Jon Evening Gowns with delicate design for every consumer. You can browse all of Teri Jon Evening Gowns by different classifications. Moreover, we provide more other chic products in our shop online. Buy Teri Jon Evening Gowns at wholesaler prices from JJsHouse, the leading wholesaler in China. All products are of high quality with adorable discount. What' more, we promise you the best service. Check JJsHouse and find your beloved products. You are welcomed all the while." A copy of a printout of the JJshouse.com from May 24, 2017 is annexed hereto as Exhibit 3.
30. The same outcome is received by searching for Teri Jon Evening Gowns directly on JJshouse.com or JenJenhouse.com.
31. None of the products returned by this search are in fact manufactured or sold by Teri Jon. Instead, Readmob is trading off of the Plaintiff's name and Plaintiff's Marks to sell competing products, most of which are cheap knockoffs.
32. The intention of Readmob is to confuse Teri Jon's customers, without regard for the damage being done to the Teri Jon brand.



33. Google aided and abetted Readmob in directing those potential customers searching for Teri Jon's products so that it could profit off of selling the right to Teri Jon's name on its "Adwords" platform. Google's conduct was with utter and total disregard for the impact on Teri Jon's business so that it could profit selling ads on its website.
34. The Payment Processor Defendants have allowed Readmob to knowingly use their closely guarded trademarks, their corporate logos to entice customers into purchasing knockoff products and to falsely claim that those products are manufactured by Plaintiff (and presumably others).
35. Furthermore, the Payment Processor Defendants profit from processing charges they earn on processing the fraudulent transaction made through the Readmob websites. They act in utter and total disregard for the rights of Plaintiff in order to earn profit while refusing to ensure that their services are not abused by likes of Readmob.
36. Plaintiff maintains strict quality control standards for its products. Customers, potential customers, and other members of the public and industry associate Plaintiff's products with high end design and high quality materials. The items being peddled by Readmob are the exact opposite of what Plaintiff is known for, low end junk.
37. Plaintiff's continuous and broad use of its respective marks has allowed it to build a reputation for expert craftsmanship, top quality, and supplies its high end designs to many celebrity customers.

38. Plaintiff's reputation is a direct result of its extensive advertising and promotion, concomitant widespread sales, the care and skill utilized in the manufacturing of its products, the uniform high quality of such products sold under or in connection with Plaintiff's Marks, and the public acceptance thereof. Plaintiff has created invaluable goodwill throughout the United States and elsewhere by selling goods of remarkable design and quality.
39. Plaintiff's Marks have developed a secondary meaning and significance in the minds of the purchasing public, and the services and products utilizing and/or bearing such marks and names are immediately identified with Plaintiff by the purchasing public. Plaintiff's valuable goodwill and brand value is being blurred and has been tarnished by the rampant infringement alleged herein.
40. Plaintiff has received numerous calls and emails from potential customers confused by the Google searches and the Readmob websites. Customers believing they had purchased genuine Teri Jon products called to complain about the quality of what they had received and then refused to believe that Teri Jon had not manufactured the products they received. Plaintiff's reputation is being mortally wounded by the Readmob scheme.

#### **Counterfeiting and the Internet**

41. Perhaps the single greatest threat to brand owners such as Plaintiff is the global sale of counterfeit products, including products with counterfeit marks that intentionally infringe on the legitimate owners' trademarks.

42. Reports introduced into the Congressional Record indicate that counterfeiting costs U.S. businesses between \$200 and \$250 billion every year and results in 750,000 lost jobs. Congress has recognized that counterfeits not only present “grave risks to the health and safety of consumers of these articles,’ but have a ‘dire effect on the economy’” as well.
43. Readmob’s scheme is simple. It uses the services of the Payment Processor Defendants and Google to confuse customers into thinking they are buying Teri Jon products.
44. Google identifies Adwords as the primary driver of its revenue. As Google states in its filings with the Securities and exchange Commission, “With AdWords, advertisers create simple text-based ads that then appear beside related search results or web content on our websites and on thousands of partner websites in our Google Network.”
45. Google describes how it earns revenue from Adwords in its Form 10-K as well:

*Google AdWords is our auction-based advertising program that enables advertisers to place text-based and display ads on our websites and our Google Network members’ websites. Display advertising comprises the videos, text, images, and other interactive ads that run across the web on computers and mobile devices, including smart phones and handheld computers such as netbooks and tablets. Most of our AdWords customers pay us on a cost-per-click basis, which*

*means that an advertiser pays us only when a user clicks on one of its ads. We also offer AdWords on a cost-per-impression basis that enables advertisers to pay us based on the number of times their ads appear on our websites and our Google Network members' websites as specified by the advertiser. For advertisers using our AdWords cost-per-click pricing, we recognize as revenue the fees charged to advertisers each time a user clicks on one of the ads that appears next to the search results or content on our websites or our Google Network members' websites. For advertisers using our AdWords cost-per-impression pricing, we recognize as revenue the fees charged to advertisers each time their ads are displayed on our websites or our Google Network members' websites.*

46. Thus Google is acknowledging that it sells Plaintiff's registered trademark to individuals using it to infringe on Plaintiff's Marks. Google derives most of its profit from the Adwords program and does not wish to interfere with this profit by properly ensuring that Plaintiff's Marks (and the marks of other innocent victims) are not abused.
47. The success of the Payment Processor Defendants' business models relies on allowing rogue websites peddling Fake Products to use their services to create infringing businesses without regard for the impact it has on legitimate businesses. As each of the Payment Processor Defendants proudly exclaims their involvement

in facilitating global payments over the internet, there is no doubt of their role in the creation of infringing sites like the Readmob Websites.

48. Readmob could not exist without the aid of the Payment Processor Defendants and Google, who not only facilitate the Readmob business, but vouch for it. Google does this by displaying Readmob's ads, and the Payment Processor do this by allowing their logos to be placed on the Readmob websites.
49. Each of the Payment Processor Defendants and Google have significant control over the use of their platforms and their trademarks by Readmob.
50. Plaintiff is uncertain as to when Readmob began using its marks, but is aware that it has gone on for some time. Plaintiff expects that discovery from the Defendants will reveal when the infringement began, especially from Defendant Google.

### **FIRST CAUSE OF ACTION**

(Trademark Infringement Under Sections 32 and 43(a) of the Lanham Act, 15 U.S.C. §§  
1114, 1125(a))

51. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as though fully set forth herein.
52. Plaintiff's Marks are valid, federally registered trademarks entitled to protection under the Lanham Act.
53. Plaintiff's Marks and the goodwill of the businesses associated with them in the United States and throughout the world are of great and significant value, are highly distinctive and the public and industry associate Plaintiff's products with high quality materials and style.

54. The Defendants are engaging in intentional illegal conduct including but not necessarily limited to, the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products in violation of the Lanham Act, as amended.
55. As alleged above, the Defendants have intentionally used the Plaintiff's Marks to market Fake Products to customers who are searching for Teri Jon products.
56. The Defendants' actions and sale of products using the Plaintiff's Marks is likely to cause consumer confusion in violation of 15 U.S.C. §1114 by, among other things, selling products of inferior quality under the brand.
57. These actions also constitute unfair competition under 15 U.S.C. §1125(a) by misleading customers searching for Teri Jon products into believing products sold on the Readmob Websites are in fact Teri Jon products. The Defendants' actions are willful and purposeful, in violation of 15 U.S.C. §1117, entitling Plaintiff to attorney's fees and enhanced damages.
58. Plaintiff has been damaged by the infringement in an amount to be determined at trial. For example and without limitation, Readmob has been enriched by sales of the Fake Products to customers believing they were purchasing Teri Jon products, Teri Jon has lost sales to which was entitled, Google has been enriched by selling ads using Teri Jon's name, and the Payment Processor Defendants have been enriched by processing fees on the fraudulent transactions.
59. Plaintiff has been, and absent injunctive relief will continue to be, irreparably harmed by the actions of the Defendants.
60. Plaintiff has no adequate remedy at law for the foregoing wrongful conduct.

## SECOND CAUSE OF ACTION

(Contributory Trademark Infringement and Counterfeiting Under the Lanham Act)

61. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as though fully set forth herein.
62. Plaintiff's Marks are valid, federally registered trademarks entitled to protection under the Lanham Act.
63. Plaintiff's Marks and the goodwill of the businesses associated with them in the United States and throughout the world are of great and significant value, are highly distinctive and the public and industry associate Plaintiff's Products with high quality materials, style, and fashion.
64. Readmob is engaging in intentional illegal conduct including but not necessarily limited to the promotion, advertisement, offer for sale, sale and distribution of counterfeit products in violation of the Lanham Act, as amended.
65. The remaining Defendants have constructive and actual knowledge of Readmob's illegal activities, through among other things, data collection and analysis.
66. Google, by offering online advertising and the Payment Processor Defendants processing to Readmob that allowed Readmob to infringe upon Plaintiff's Marks, aided, facilitated, participated in, and materially contributed to the sale of Fake Products in violation of the Lanham Act, 15 U.S.C. §§ 1114, 1116(d), 1117(b)-(c), and 1125(a). For example and without limitation, the Payment Processor Defendants participated in the sales of fake Teri Jon products by Readmob by

accepting the credit card numbers for the sales transactions of processing the transactions and paying the proceeds of the sales to Readmob. Further, Google participated in the sales of by knowingly allowing Readmob to purchase Adwords that infringed upon Plaintiff's Marks.

67. Google and the Payment Processor Defendants have materially encouraged, enabled and contributed to the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products by, among other things, providing critical online marketing, financing and/or payment processing to Readmob. Each of these Defendants received a direct financial benefit for providing such services.
68. These Defendants exercised control over the means of the infringement. As described above, Google offers search options that help lead consumers to the Readmob Websites' fraudulent listings of Teri Jon Products. Google knew, or should have known, that the sale of Adwords with Plaintiff's Marks are infringing. The Payment Processor Defendants similarly allow the use of their trademarks to vouch for the Readmob Websites while allowing Readmob to process payments.
69. Readmob, with the intent to pass off or borrow from Plaintiff's established good will, display Plaintiff's Marks to hawk goods on their websites that they know are not Teri Jon products, in violation of the Lanham Act, as amended.
70. The intent of Readmob is to cause confusion, as described herein, gives rise to a presumption of the likelihood of confusion.
71. Google's actions described above have caused and are likely to cause confusion and mistake and to deceive potential customers and the general purchasing public as to the source, origin, or sponsorship of the Fake Products sold on the Readmob



Websites and are likely to deceive the public into believing that the Fake Products that are the subject of promotion, advertisement, offer for sale, sale and distribution by Readmob are associated with, or are otherwise authorized by Plaintiff, all to the damage and detriment of Plaintiff's reputation, goodwill, and sales.

72. The Payment Processor Defendants, as described above, have been facilitating the financial transactions that allow Readmob to confuse the general public as to the the source, origin, or sponsorship of the Fake Products sold on the Readmob Websites and further they permit their logos to be displayed by Readmob as a way of vouching for Readmob's behavior. This conduct is likely to deceive the public into believing that the Fake Products that are the subject of promotion, advertisement, offer for sale, sale and distribution by Readmob are associated with, or are otherwise authorized by Plaintiff, all to the damage and detriment of Plaintiff's reputation, goodwill, and sales.
73. Each of Google and the Payment Processor Defendants therefore bears contributory liability for the infringement and counterfeit use of Plaintiff's Marks by Readmob in violation of 15 U.S.C. § 1051, et seq.
74. Plaintiff has been damaged by this contributory infringement in an amount to be determined at trial and no less than the statutory damages to which Plaintiff is entitled pursuant to 15 U.S.C. § 1117(c)(2). Further, the Defendants' actions are willful and purposeful, in violation of 15 U.S.C. § 1117, entitling Plaintiff to attorney's fees and enhanced damages.
75. Plaintiff has been, and absent injunctive relief will continue to be, irreparably harmed by Defendants' actions.

76. Plaintiff has no adequate remedy at law for the foregoing wrongful conduct.

### **THIRD CAUSE OF ACTION**

(Trademark Dilution Under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c))

77. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as though fully set forth herein.
78. Plaintiff's Marks have become famous marks within the meaning of the Trademark Dilution Revision Act of 2006, and are immediately recognizable to the relevant public as being associated with Plaintiff. Plaintiff's Marks are the subject of valid and subsisting registrations under the Lanham Act.
79. Because Plaintiff's Products have gained a reputation for superior quality and excellence, Plaintiff's Marks have gained substantial renown and reputation.
80. Defendants' use of Plaintiff's Marks is likely to cause and has caused blurring to and of Plaintiff's Marks and impair the distinctiveness of Plaintiff's Marks. Consumers are likely to associate Defendants' uses of Plaintiff's Marks with the Plaintiff's Marks themselves because of the similarity between Defendants' use of Plaintiff's Marks and Plaintiff's Marks themselves. In particular, the following factors make dilution by blurring likely: (1) Defendants are making uses of Plaintiff's Marks themselves; (2) Plaintiff's Marks have acquired tremendous distinctiveness through Plaintiff's continuous promotion and uses of Plaintiffs' Marks; (3) Plaintiff's Marks have become famous and achieved a high level of recognition among the consuming public; (4) Plaintiff's commercial use of its Marks is substantially exclusive to Plaintiff and its agents and licensees; (5)

Defendants intend to create an association between Defendants' uses of Plaintiff's Marks and Plaintiff's Marks themselves; and (6) on information and belief, many consumers actually associate Defendants' uses of Plaintiff's Marks confusingly similar thereto with Plaintiff's Marks themselves.

81. Defendants' conduct as alleged above is also likely to cause tarnishment among Plaintiff's Marks that harms the reputation of Plaintiff because of the similarity between Defendants' uses of Plaintiff's Marks and Plaintiff's Marks themselves. In particular, the Fake Products sold, offered for sale, and/or distributed by Defendants, which are of notoriously bad quality and made with cheap materials, display Plaintiff's Marks in a manner that is confusingly similar to Plaintiff's Products and therefore mislead consumers to believe that Plaintiff's Products are of low quality.
82. Defendants' conduct described above dilutes, blurs, tarnishes, and whittles away at the distinctiveness of Plaintiff's Marks, and has caused actual dilution and has detracted from the distinctiveness of the famous Plaintiff's Marks with consequent damage to Plaintiff and to the substantial business and goodwill symbolized by Plaintiff's Marks in violation of the Federal Trademark Dilution Act, 15 U.S.C. § 1125(c).
83. Defendants' acts of trademark dilution have caused and, unless restrained will continue to cause, great and irreparable injury to Plaintiff, to Plaintiff's Marks, and to the substantial business and goodwill represented thereby, in an amount that cannot be presently ascertained, leaving Plaintiff with no adequate remedy at law.

84. Defendants' conduct has been undertaken with a willful intent to trade on the reputation of Plaintiff and to cause dilution of the famous Plaintiff's Marks, and this conduct entitles Plaintiff to damages and the other remedies available pursuant to 15 U.S.C. § 1125(c)(2).

#### **FOURTH CAUSE OF ACTION**

(Direct Trademark Infringement Through Initial Interest Confusion)

85. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as though fully set forth herein.
86. Plaintiff's Marks are valid, federally registered trademarks entitled to protection under the Lanham Act.
87. Plaintiff's Marks and the goodwill of the businesses associated with them in the United States and throughout the world are of great and significant value, are highly distinctive and the public and industry associate Plaintiff's Products with high quality materials, style, and fashion.
88. Teri Jon does not sell on the Readmob Websites, and does not authorize any of its distributors to sell on the Readmob Websites.
89. For a considerable length of time, searches on Google and the Readmob Websites for Plaintiff's federally registered trademarks – produces lists of products that directly compete with Plaintiff's products and in many cases infringe trademarks covering them.
90. These products are often designed to look like Teri Jon products, and are advertised to make a consumer believe they are Teri Jon products. In many cases, the

advertisements associated with the listings are lifted from advertisements created by and used by Teri Jon.

91. By producing images of products designed to look like legitimate Teri Jon products, in response to a search using Teri Jon's registered trademarks, and without identifying that said images are of products NOT made or endorsed by Teri Jon; Readmob and Google are causing initial interest confusion that detracts from the possibility of a consumer finding and purchasing a legitimate Teri Jon product.
92. Plaintiff has been damaged by this infringement in an amount to be determined at trial.
93. Plaintiff has been, and absent injunctive relief will continue to be irreparably harmed by these actions.
94. Plaintiff has no adequate remedy at law for the foregoing wrongful conduct.

#### **FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

(Violations of Racketeer Influenced and Corrupt Organizations Act ("RICO") 18 U.S.C. § 1962(c))

95. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as though fully set forth herein.
96. At all relevant times, Plaintiff is a person within the meaning of 18 U.S.C. §§1961(3) and 1962(c).
97. At all relevant times, each Defendant is a person within the meaning of 18 U.S.C. §§1961(3) and 1962(c).

### **The RICO Enterprise**

98. The Defendants and their co-conspirators constitute an association-in-fact enterprise within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), referred to herein as the “Enterprise.” Each of the Defendants participated in the operation or management of the Enterprise because they engaged in acts that they knew would further the scheme to sell and profit from the sale of obvious Fake Products, and that they further intended to further that scheme, and exercised substantial discretion in doing so.
99. The Enterprise consists of Readmob, Google, PayPal, Amex, Visa and Mastercard, and other unidentified websites engaging in the same conduct for the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products in violation of the Lanham Act, who have joined together to form an enterprise in fact whose purpose is to sell and profit from the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products. The Unauthorized Sellers knowingly have engaged in the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products using Google Adwords and the services of the Payment Processor Defendants to effect such activities.
100. Each of the Defendants acted knowingly.
101. Defendants and their co-conspirators are a group of persons associated together in fact for the common purpose of carrying out an ongoing criminal enterprise, as described in the foregoing paragraphs of this Complaint; namely, through a systematized operation to sell and profit from the sale of obvious counterfeit goods including fake products that infringe on one or more of Plaintiff’s Marks. These

Defendants and their co-conspirators have organized their activities into a cohesive group with specific and assigned responsibilities and division of tasks, operating in the United States, China, and elsewhere. Readmob and others have engaged in the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products through Google Adwords. While Plaintiff is informed and believes that the membership of this Enterprise has changed over time and its members may have held different roles at different times, the Enterprise has generally been structured to operate as a unit in order to accomplish the goals of the criminal scheme, profiting from the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products in violation of the Lanham Act, as amended, including through the following acts:

- a. Google and the Payment Processor Defendants have participated in the operation and management of the Enterprise by knowingly facilitating the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit products.
- b. The Payment Processor Defendants have also participated in the operation and management of the Enterprise by, among other things, their operation of platforms that enables merchants, including the Seller Defendants, and consumers around the globe to connect, processing the transactions for the sale of Fake Products and conducting online payment processing for counterfeit goods purchased through the Readmob Websites.
- c. Unidentified co-conspirators have been integrally involved in various stages of the Defendants' criminal enterprise, directing, controlling, ratifying, facilitating, or

otherwise participating in the manufacture, distribution, sale, and advertisement of Fake Products through the Readmob Websites.

102. At all relevant times, the Enterprise was engaged in, and its activities affected, interstate and foreign commerce within the meaning of 18 U.S.C. § 1962(c), because Defendants have sold and continue to sell a substantial volume of Fake Products into the United States, causing harm to Plaintiff in their business and property.

**Pattern of Racketeering Activity**

103. The Defendants conducted or participated, directly or indirectly, in the conduct, management, or operation of the Enterprise's affairs through a "pattern of racketeering activity" within the meaning of 18 U.S.C. § 1961(5) and in violation of 18 U.S.C. § 1962(c). This pattern included multiple instances of trafficking in counterfeit goods in violation of 18 U.S.C. § 2320(a)(1), and wire fraud in violation of 18 U.S.C. §§ 1341, 1343. These predicate acts are all related to each other and to the Enterprise's purpose of selling and profiting from the sale of counterfeit goods.
104. Moreover, this pattern has been ongoing and will likely continue into the future. Indeed, Plaintiff is informed and believes that there are at least many online storefronts now involved in the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit Teri Jon products. Each sale of Fake Products, and each transfer of funds in payment for the purchase of Fake Products using services offered by the Payment Processor Defendants, causes new injury to



Plaintiff in the form of brand dilution, loss of goodwill and lost sales, as set forth below, injuries that Plaintiff would not have suffered but for the conduct of the Enterprise.

**Numerous Instances of Trafficking in Counterfeit Goods In Violation of 18 U.S.C. § 2320(a)(1)**

105. At all times material to this Complaint, Plaintiff was engaged in interstate commerce and in an industry that affects interstate commerce.
106. As described herein, Defendants have engineered an organized operation to offer, sell and profit from the sale of counterfeit goods through google.com and the Readmob Websites by, and among other things, the promotion, advertisement, offer for sale, sale and distribution of obvious counterfeit Teri Jon products which bear marks that are identical to, or substantially indistinguishable from, Plaintiff's federally registered marks, the use of which is likely to cause confusion, mistake, or to deceive— are used.
107. In furtherance of their scheme, and as described herein, Defendants transported, transferred, or otherwise disposed of—and attempted to transport, transfer, or otherwise dispose of—counterfeit goods sold on the Readmob Websites to their online purchasers in exchange for money, and/or made or obtained control of the counterfeit goods with intent to so transport, transfer, or dispose of. Such counterfeit goods that Defendants transported, transferred, or otherwise disposed of, or made or obtained control of with intent to so transport, transfer, or dispose of, include, but are not limited to, Fake Products that infringe on one or more of Plaintiff's

Trademarks by copying the designs and packaging associated with Plaintiff's Products.

108. While Plaintiff contends that Defendants' sale and transport of such Fake Products is vast in volume and will be revealed by discovery in this action, Plaintiff is not in possession of the sales data from Readmob and the enterprise.
109. Defendants participated in the scheme knowing full well that the goods they were (1) transporting, transferring, or otherwise disposing of; (2) attempting to transport, transfer, or otherwise dispose of; and/or (3) making or obtaining control of with intent to so transport, transfer, or dispose of, were counterfeit. Defendants are engaged in a wide-ranging scheme to sell and profit from the sale of goods upon which or in connection with which counterfeit marks are knowingly used.
110. Moreover, Defendants participation in the scheme was intentional—Defendants intended to (1) transport, transfer, or otherwise dispose of; (2) attempt to transport, transfer, or otherwise dispose of; and/or (3) make or control goods known by them to be counterfeit.
111. Accordingly, Defendants have unlawfully trafficked, attempted to traffic and aided and abetted the trafficking, as that term is defined in 18 U.S.C. § 2320(e)(2), of goods upon which or in connection with which counterfeit marks, as that term is defined in 18 U.S.C. § 2320(f)(1), were used, in violation of 18 U.S.C. § 9 2320(a)(1).

**Pattern of Racketeering Activity: Multiple Instances of Wire Fraud In Violation of 18 U.S.C. § 1343**

112. The Enterprise has engaged in a scheme to sell and profit from the sale of counterfeit goods through Google Adwords and the Readmob Websites by, among other things, the promotion, advertisement, offer for sale, sale, financing and distribution of obvious counterfeit Teri Jon products. In furtherance of this scheme, the Enterprise has engaged in multiple counts of wire fraud in violation of 18 U.S.C. § 1343.
113. Specifically, Defendants' misappropriation of Plaintiff's intellectual property through the promotion, sale, and shipment of Fake Products for profit, constitutes a "scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises," within the meaning of Section 1343, and Defendants have knowingly transmitted or caused to be transmitted by means of wire communication in interstate and foreign commerce multiple communications for the purpose of executing this scheme, specifically through the operation of interactive websites used to promote and sell Fake Products, including specifically targeting consumers in the United States, and by means of electronic communications used to facilitate and complete such sales with consumers in the United States and elsewhere. By means of this scheme, Defendants have (1) obtained money from consumers purchasing Fake Products because of their misappropriation of Plaintiff's Marks; and (2) wrongfully obtained the value of Plaintiff's intellectual property through the sale of Fake Products. This conduct has directly harmed both consumers and Plaintiff by sowing confusion among consumers seeking authentic Plaintiff's Products and post-sale confusion among consumers who come in contact with the Fake Products and associate their inferior quality with Plaintiff's Marks.

114. As evidenced by the routine nature of Defendants' promotion and sale of counterfeit items and the volume of traffic experienced by Google.com, Plaintiff believes that the actual volume of Defendants' use of the sales and shipments of Fake Products to customers in the United States and elsewhere is vast and will be revealed in discovery in this action.
115. Google and Readmob have falsely stated that the Readmob Websites are selling Teri Jon products, when they know otherwise, misleading countless customers.
116. The Payment Processor Defendants committed numerous predicate acts, including mail and wire fraud and trafficking in counterfeit goods. These Defendants used or caused to be used the mail or wires in furtherance of Defendants' wide-spread scheme to sell and profit from the sale of counterfeit goods.
117. Readmob has committed numerous counterfeiting violations—intentionally trafficking or causing to traffic counterfeit goods, conspiring to traffic counterfeit goods, and aiding and abetting the trafficking of counterfeit goods, including the Fake Products bearing Plaintiff's Marks, all in furtherance of Defendants' organized operation to sell and profit from the sale of Fake Products.
118. Each of the Defendants has engaged in multiple predicate acts, including trafficking in Fake Products, and engaging in mail and wire fraud in order to effectuate such sales, as described in the foregoing paragraphs. The conduct of each of the Defendants described in the foregoing paragraphs constitutes a pattern of racketeering activity within the meaning of 18 U.S.C. § 1961(5).
119. Plaintiff has been injured in their businesses and property by reason of Defendants' violations of 18 U.S.C. § 1962(c). The injuries to Plaintiff caused by reason of

the violations of 18 U.S.C. § 1962(c) include but are not limited to damage to the value of Plaintiff's intellectual property and other assets, lost sales, and direct expenses from Plaintiff's efforts to stop the sale of Fake Products.

120. More specifically, Defendants' racketeering activities have caused damage to Plaintiff's reputation, goodwill, and sales, including but not limited to lost sales from customers that would have purchased Plaintiff's Authentic Products but for the availability of inexpensive Fake Products, and prospective customers who choose not to purchase Plaintiff's Authentic Products because of the availability of inferior inexpensive Fake Products. Further, these injuries to Plaintiff were a direct, proximate, and reasonably foreseeable result of the violation of 18 U.S.C. § 1962(c), and Defendants' conduct is the direct and but for cause of these injuries. Furthermore, each new sale of Fake Products, and each new commission of one of the predicate acts identified above, causes new injuries to Plaintiff.
121. Given the organized and pervasive nature of the Enterprise's promotion and sale of Fake Products, and the Enterprise's continued and ongoing operations, which are likely to extend into the future, Plaintiff has been and will continue to be injured in its business and property in an amount to be determined at trial.
122. Pursuant to 18 U.S.C. § 1964(c), Plaintiff is entitled to recover treble damages plus costs and attorneys' fees from Defendants.
123. Plaintiff is further entitled to, and should be awarded, a permanent injunction that enjoins Defendants, their assignees, and anyone else acting in concert with them from directly or indirectly contributing to, aiding, or abetting the marketing, promotion, or sale of Fake Products or any unauthorized or counterfeit products

that bear, contain, display, or utilize any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from Plaintiff's Marks.

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Permanently enjoin the Defendants and their respective officers, directors, agents, representatives, successors or assigns, and all persons acting in concert or in participation with any of them from, with respect to any products offered for sale:

(a) manufacturing, distributing, delivering, shipping, importing, exporting, advertising, marketing, promoting, selling, or otherwise offering for sale Fake Products or any other products confusingly similar to Plaintiff's products, or that otherwise bear, contain, display, or utilize any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiffs' Marks;

(b) processing credit card transactions or otherwise facilitating the sales of Products or any other products confusingly similar to Plaintiffs' authentic products, or that otherwise bear, contain, display, or utilize any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiff's Marks;

(c) making or employing any other commercial use of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiff's Marks;

(d) using any other false designation of origin or false description or representation or any other thing calculated or likely to cause confusion or mistake in the mind of the trade or public or to deceive the trade or public into believing that Defendants' products or activities in connection with the offer and/or sale of Fake Products are in any way sponsored, licensed or authorized by or affiliated or connected with Plaintiff; and

(e) doing any other acts or things calculated or likely to cause confusion or mistake in the mind of the public or to lead purchasers or consumers or investors into the belief that the products or services promoted, offered, or sponsored by Defendants come from Plaintiff or its licensees, or are somehow licensed, sponsored, endorsed, or authorized by, or otherwise affiliated or connected with Plaintiff; and

(f) moving, returning, or otherwise disposing of, in any manner, any Fake Products or any other products confusingly similar to Plaintiff's Products, or that otherwise bear, contain, display, or utilize any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiff's Marks; and

(g) secreting, destroying, altering, removing, or otherwise dealing with the unauthorized products or any books or records which contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting, or displaying of all unauthorized products which infringe Plaintiff's Marks; and

(h) further diluting and infringing all Plaintiff's Marks and damaging Plaintiff's goodwill;

(i) otherwise competing unfairly with Plaintiff in any manner; and

(j) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in the above subparagraphs (a) through (i), or effecting any assignments or transfers, forming new entities or associations, or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs (a) through (i).

2. Exercise the Court's inherent equitable authority and its statutory equitable authority under 15 U.S.C. § 1116 to direct Defendants to account to Plaintiffs for the profits obtained through the unlawful activities alleged herein and unjust enrichment obtained through the unauthorized use of Plaintiff's Marks.

3. Order that the Plaintiffs recover their damages arising out of the acts of deception and infringement described above, and a sum equal to three times such profits or damages (whichever is greater), pursuant to 15 U.S.C. § 1117(a) and (b);

4. Award Plaintiffs statutory damages in an amount to be determined representing \$2 million per counterfeit mark per type of goods or services sold, offered for sale, or distributed, pursuant to 15 U.S.C. § 1117(c);

5. Award Plaintiffs treble damages in an amount to be determined plus costs and attorneys' fees from Defendants pursuant to 18 U.S.C. § 1964(c).



6. Direct Defendants to recall and remove from all websites, online markets, or other channels of commerce any Fake Products or any other products confusingly similar to Plaintiff's products, or that otherwise bear, contain, display, or utilize any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiff's Marks, that are in Defendants' possession or control, and all means of making the same;

7. Direct Defendants to deliver up for destruction all Fake Products or any other products confusingly similar to Plaintiff's Products, or that otherwise bear, contain, display or utilize any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from the Plaintiff's Marks, that are in Defendants' possession or control, and all means of making the same, in accordance with 15 U.S.C. § 1118;

8. Direct Defendants to deliver up for destruction any and all guarantees, circulars, price lists, labels, signs, prints, packages, wrappers, pouches, receptacles, advertising matter, promotional, and other materials in the possession or control of Defendants bearing any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark confusingly similar thereto or likely to dilute or detract from Plaintiffs' Marks, in accordance with 15 U.S.C. § 1118;

9. Direct Defendants to supply Plaintiff with a complete list of entities from whom they collected and to whom they distributed and/or sold Fake Products or any other products confusingly similar to Plaintiff's' Products, or that otherwise bear, contain, display or utilize any of Plaintiff's Marks, any derivation or colorable imitation thereof, or any mark

confusingly similar thereto or likely to dilute or detract from Plaintiff's Marks, and to provide documentation of the manner through which the Fake Products or other products were paid, including any bank accounts to, through or from which funds were wired;

10. Direct Defendants to file with the Court and serve on counsel for Plaintiffs within thirty (30) days after entry of any injunction issued by the Court in this action, a sworn written statement pursuant to 15 U.S.C. § 1116(a) setting forth in detail the manner and form in which Defendants have complied with any injunction which the Court may enter in this action;

11. Award Plaintiffs their reasonable attorneys' fees along with the costs and disbursements incurred herein as a result of Defendants' intentional and willful infringement, pursuant to 15 U.S.C. § 1117;

12. Award Plaintiffs such other and further relief as the Court deems just and proper.

#### **DEMAND FOR JURY TRIAL**

13. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand a jury trial on all issues so triable.

Dated: May 30, 2017

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/s/ Avram E. Frisch  
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